



New Jersey Department of Children and Families Policy Manual

Manual:	NJAC	NJ Administrative Code Excerpts	Effective Date:
Title	10	Human Services	
Chapter	129	Child Protection Investigations	12/13/2011
Subchapter:	5	Specialized Assessment And Investigation	
Section	1	Referral of cases to a prosecutor (N.J.A.C. 10:129-5.1)	

§10:129-5.1 Referral of cases to a prosecutor

(a) State law requires each person to report suspected cases of abuse or neglect to the Department, and the Department has a legal obligation to refer to county prosecutors all cases that involve suspected criminal activity on the part of a child's parent, caregiver or any other person. While this duty may result in the referral of a substantial number of cases to prosecutors, it is anticipated that in most of the cases referred, extensive police involvement will not be warranted, and indeed that in many cases no police involvement will be required.

(b) Caseworkers are obligated to immediately report to the prosecutor all cases involving suspected criminal conduct on the part of a parent, caregiver, or any other person. This obligation will be satisfied if caseworkers refer to the prosecutor all cases involving any of the following: (This list shall not be construed to preclude the referral of any other case which, in the judgment of the caseworker and supervisor, warrants review by the prosecutor.)

1. Death of a child;

2. The subjecting or exposing of a child to unusual or inappropriate sexual activity;

3. Any type of injury or condition resulting in hospitalization or emergency room treatment;

4. Any type of injury or condition that requires significant medical attention (for example, treatment for broken bone at physician's office);

5. Repeated instances of physical violence committed against a child, or substantially depriving a child of necessary care over a period of time; or

6. Abandonment of a child.

(c) While several of the criteria set forth in (b) above are based solely upon the objective condition of the child, there should also be some reason to believe that the injury or condition was not accidentally caused. For purposes of these guidelines, an injury is not accidental if an intentional act produces an unintended result. Thus, a parent, caregiver, or any other person who physically disciplines a child may have committed child abuse even though the resulting injury was not intended.

(d) This policy regarding referral applies whether the child is residing at home or in an institution, school or other residential facility, and whether the person believed to be responsible for the injuries is the child's parent, caregiver, or any other person.

(e) The Department's duty to refer a case to the prosecutor immediately arises as soon as the caseworker has any information about the case which leads him or her to suspect that the alleged abuse or neglect may have occurred. This means that the child's condition or injury is one of those specified in this policy and the caseworker has reason to believe that the condition or injury was not accidentally caused.

1. In some cases, such as where the child is in a hospital and a doctor states his or her opinion that the condition or injury was probably not accidental, the caseworker will have sufficient information to require a report at a very early stage of the investigation. In other cases, such as where evidence initially supports the claim that the condition or injury was accidentally caused, the duty to report may not arise until a later point when the caseworker has conducted a more extensive investigation.

2. Thus, referral need not be made at the time a report is first received by the Department even if the report provides information to place the case in one of the categories set forth in this policy. This information should be supported by the belief of the caseworker. This does not mean that the caseworker must have completed an investigation and secured solid evidence of abuse or neglect. Rather, cases falling within these categories must be referred at the point at which the caseworker has some suspicion that the child's